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ABSTRACT

Based on research conducted at Mississippi State University, Meridian (Mississippi) Public Schools, and Vicksburgh Public Schools, the intent of this study was to determine the general state of due process procedures in the practices of school officials throughout the southern region. All cases involving teacher dismissal in the Fifth Circuit Court of Appeals or the federal district courts within the Fifth Circuit region from 1970 through 1981 were examined. The cases were annotated and categorized, and conclusions were reached about common patterns existing in teacher dismissal cases. Several patterns were found. Cases involving school systems that closely followed general state statutes, tenure statutes, and state fair employment dismissal acts were usually upheld in the appeals court decisions. Cases from school systems not closely following those practices were usually found to be unfair, arbitrary, or unreasonable, and in violation of due process. A similar pattern was found in decisions in cases involving teacher contract nonrenewal. The courts tended to make decisions on the merits of each individual case in cases involving incompetency, immorality, insubordination, violation of First Amendment rights, or felony convictions. Further study of such decisions should be conducted nationally to see if other patterns may emerge. (MD)

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~~AN UPDATE OF~~ DUE PROCESS PROCEDURES ARISING FROM PERSONNEL PRACTICES OF SOUTHERN SCHOOL BOARDS

Presented at The Annual Conference of the
Southern Regional Conference of Professors of Educational
Administration - Knoxville, Tn., November 1983

By

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This report is based mainly on original research conducted by Dr. Mary Linda Guin of Mississippi State University and the Meridian Mississippi Public Schools. Some of the original data were obtained by the presenter and Dr. Ernestine N. Madison of the Vicksburg Public Schools in their effort to determine what local school boards were doing about the Fair Employment Practices Statutes. The data collected and examined in both these studies were subjected only to annotation, categorization, judgmental analyses and not to any kind of quantitative statistic. The intent of the studies was to determine: (1) the practices of school officials throughout the region; (2) the litigation generated because of these practices; (3) the common practices that led to successful/unsuccessful defenses of their cases; and, (4) the general state of due process for certificated employees.

Guin's study reported the results of an investigation of the legal problems arising from the personnel practices of school boards in the southeast. An examination of all the cases involving teacher dismissal heard by the Fifth Circuit Court of Appeals or the Federal District Courts within the Fifth Circuit region from 1970 through 1981.

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During this period there were 94 decisions rendered in the Federal District Courts and the Fifth Circuit Count of Appeals involving teacher dismissal. The Fifth Circuit Court of Appeals heard cases from the states of Mississippi, Alabama, Louisiana, Texas, Georgia, Florida, and the Territory of the Canal Zone from 1970 through 1980. Presently, the Fifth Circuit Court of Appeals hears cases from the states of Mississippi, Texas, Louisiana, and the Territory of the Canal Zone. Cases alleging racial discrimination that occurred from 1970 through 1981 in the Fifth Circuit area were not included in the study per se; but, they were included in annotated form in the appendix because of their importance to school boards of the region during that decade.

All cases of teacher dismissal from 1970 through 1981 in the Fifth Circuit Court of Appeals and the Federal District Courts of the Fifth Circuit region were reviewed and annotated. The annotated entry on each case included the background of each case, the grounds that were alleged to exist in each case, the decision or decisions rendered by the Federal judge(s), the significance of the case, and further appeals, if any were made. The cases were categorized based on the cause of teacher dismissal, i.e.: (1) constitutional due process, (2) teacher incompetence, (3) teacher immorality, (4) teacher insubordination, (5) teacher contract non-renewal, (6) teacher rights under the First Amendment, and (6) teacher violation of law. The cases were annotated, categorized, and conclusions were reached about the common patterns that existed among teacher dismissal cases as to whether or not a school board was successful or unsuccessful in its practices of administering its personnel policies regarding teacher dismissal.

The need for this study arose because the litigation surrounding teacher dismissal cases has become a major area of public school legal controversy. Teachers, administrators, and school board members need to become familiar with the decisions of previous cases which may govern the legality of their potential actions in teacher dismissal situations. They must know the law in order to deal intelligently with the many aspects of due process for certificated personnel. General guidelines for due process have been outlined by the Fifth Circuit Court of Appeals; these are:

1. Advise teacher of cause or causes for termination in sufficient detail to fairly enable him/her to show any error that may exist.

2. Advise teacher of the names and the nature of the testimony of the witnesses against him/her.

3. After being advised, allow the teacher a meaningful opportunity to be heard in his/her own defense.

4. Judge should possess some academic expertise and should be impartial toward the charges.

5. Advise teacher in writing of the statement of the findings, conclusions and recommendations.

6. Advise teacher of right to further appeal.

Several significant patterns of commonality were found to exist among the cases examined by Guin. There was a pattern of commonality among the legal decisions rendered in the Fifth Circuit Court of Appeals and Federal District Courts for the period 1970-81 involving teacher dismissals and the constitutional due process procedures followed by

school systems. Litigation alleging violation of Constitutional due process imposed the largest number of cases reviewed by the Fifth Circuit Court of Appeals. Guin found that those school systems which closely followed general state statutes, tenure statutes, and state fair employment dismissal acts, if applicable, were usually upheld in the appeals court decision. Those school systems which did not closely follow state general statutes, tenure statutes and state fair employment dismissal acts were usually found to be unfair, arbitrary, or unreasonable and in violation of due process in regard to teacher dismissal. Thus they usually lost their cases.

A pattern of commonality also existed in the decisions rendered in teacher dismissal cases involving teacher contract non-renewal. The courts tended to uphold those school systems who adhered to tenure laws, if applicable, state employment requirements, or school board policies in procedures dealing with non-renewal of contract. They tended to rule against those school districts that did not follow the statutes closely.

A pattern of commonality existed in the decisions rendered in teacher dismissal cases involving teacher incompetency, teacher immorality, teacher insubordination, violation of First Amendments rights or felony convictions. In these cases the courts tended to find on the merits of each individual case.

In tracing the history of due process procedures in those states included in the Fifth Circuit District and the cases that arose from the rights to due process as guaranteed by the Constitution of the United States of America for the period 1970 through 1981 Guin found evidence

enough to conclude that patterns of commonalities exist among decisions rendered by that court. However, further study should be conducted of such decisions throughout the United States. This might prove that there are other patterns of commonality that did not surface in the Fifth Circuit Court of Appeals district due to the small number of cases in some categories.

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